

## REMARKS

No amendments, cancellations, or additions have been made to the claims of the presently claimed case. As such, claims 1, 3-12, 14, 16-24, 27, and 28 are currently pending in the case. Further examination and reconsideration of the presently claimed application are respectfully requested.

### Allowed Claims:

Claims 1, 3-10, 23, 27, and 28 were allowed. Applicant appreciates the Examiner's allowance of claims 1, 3-10, 23, 27, and 28 and eagerly awaits formal allowance of the remaining claims.

### Lack of Support for Rejection

Claim 24 was rejected in the Office Action Summary. However, the Examiner failed to establish a basis for the rejection. Since claim 24 is dependent from allowed claim 23, claim 24 is patentably distinct over the cited art for at least the same reasons as that claim. As such, the allowance of claim 24 is respectfully requested.

### Section 102 Rejections:

Claims 11, 12, 14, and 16-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,283,840 to Huey (hereinafter "Huey"). Claims 11, 12, 14, and 16-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,284,092 to Manfredi (hereinafter "Manfredi"). The standard for "anticipation" is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP 2131. Neither Huey nor Manfredi disclose all limitations of the currently pending claims, some distinctive limitations of which are set forth in more detail below. As such, the § 102(e) rejection of claims 11, 12, 14, and 16-22 is respectfully traversed.

**None of the cited art discloses a spray element which includes one or more adjustable shields arranged about the plurality of nozzles.** Claim 11 recites in part: "[a] spray element adapted to be positioned within a polishing system ... wherein the spray element comprises a plurality of nozzles ... and one or more adjustable shields arranged about the plurality of nozzles." Huey teaches arm assembly 60

configured to prevent the dispersion of fluid from nozzles arranged within the assembly arm by the inclusion of housing 64 and retainer 78. Manfredi teaches slurry dispenser device 12 having curtain 34 "... employed around the periphery of the dispenser 24 to contain the atomized slurry and prevent loss of slurry and/or misting in the work area." (Manfredi, column 6, lines 58-60). Neither Huey nor Manfredi, however, teach or suggest a spray element with adjustable shields as recited in the presently claimed case. In particular, Huey illustrates assembly housing 64 having a unitary body and, therefore, cannot be adjustable. Similarly, Manfredi teaches curtain 34 as a unitary body coupled to the sides and distal portion of dispenser 24. There is no teaching or suggestion that curtain 34 is adjustable relative to dispenser 24 or any other component of dispenser device 12. Consequently, neither Huey nor Manfredi anticipate the limitations of claim 11.

Furthermore, there is no motivation within the cited art to teach the limitations of claim 11. In particular, Huey teaches interposing retainer 78 between assembly housing 64 and polishing pad 54 to form "... a dam to retain slurry and rinse water within a reservoir formed by the retainer and pad." (Huey, column 4, lines 42-43). As such, there is no motivation to allow assembly housing 64 to be adjustable since shortening the sidewalls of assembly housing 64 would prevent the formation of a dam upon polishing pad 54. Manfredi teaches, "[t]he chemical drops 27 and the air curtain 28 meet preferably at or near the pad surface and form an atomized chemical spray 29 which impinges on the surface 16 of pad 15." (Manfredi, column 6, lines 36-39). Since Manfredi prefers to maintain atomized chemical spray 29 within close proximity of pad 15, there is no motivation to adjust the position of curtain 34 since the curtain is specifically provided to contain the atomized spray as noted above. If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) MPEP 2143.01. Consequently, it is asserted that claim 11 is patentably distinct over the cited art.

The Office Action states that Huey and Manfredi teach systems with spray elements which are configured to move and, consequently, teach polishing systems with adjustable shields. Such a basis for rejection, however, is asserted to be erroneous in light of the scope of the claimed subject matter. In particular, the subject matter of claim 11 is a spray element with adjustable shields, rather than a polishing system with adjustable shields as inferred by the statements made in the Office Action. As such, the limitation of "one or more adjustable shields" in claim 11 specifies the configuration of the claimed spray element, rather than the polishing system to have shields which may repositioned within the system. In

particular, the adaptation of the shields to be adjustable is relative to the components of the spray element rather than the polishing system in which the spray element is adapted to be positioned. Consequently, the mobility of the spray element is irrelevant to the limitation of the spray element to have adjustable shields. Similarly, a bike with adjustable handle bars may be adapted to move, but the adaptation of the handle bars to be adjustable is relative to the components of the device and not the environment in which the bike is positioned.

**None of the cited art discloses a method for cleaning a polishing pad which includes spraying a pressurized fluid in a pulsating sequence upon the polishing pad.** Claim 18 recites in part: “[a] method for cleaning a polishing pad, comprising ... spraying a pressurized fluid in a pulsating sequence from the spray element upon the polishing pad ...” Neither Huey nor Manfredi teach spraying a pressurized fluid in a pulsating sequence to clean a polishing pad. As such, neither Huey nor Manfredi can anticipate the limitations of claim 18. Furthermore, without any teaching or suggestion of spraying a pressurized fluid in a pulsating sequence, the cited art cannot provide any motivation to teach a method for cleaning a polishing pad with such a limitation. Consequently, claim 18 is asserted to be patentably distinct over the cited art.

The Office Action states the claimed method “... is merely the natural use of the claimed apparatus. The limitation of having [a] pulsating sequence would be a matter of intended use because the user can manually or automatically cause the spray to pulsate as a matter of operator choice.” (Office Action, pages 2 and 3). Such statements are traversed, however. In particular, pulsating a pressurized fluid upon a polishing pad is not necessarily a natural use of the apparatus of the presently claimed case. The apparatus described in the Specification may be adapted to spray pressurized fluid continuously or in a pulsating manner. As such, the limitation of claim 18 specifies a method with which to clean a polishing pad using particular embodiment of the apparatus described in the presently claimed case. In addition, even if the claimed method were a natural use of the apparatus of the presently claimed case, the Applicant is unaware of any legal precedent that would bar claims from being directed at a method of using the apparatus, presuming the apparatus and claimed process steps are novel and are unobvious.

In any case, the Specification teaches spraying a pressurized fluid in a pulsating sequence may be advantageous “...so that the fluid dispersed from the spray element may not dilute the slurry used to polish the topography.” (Specification, page 26, lines 3-4). Consequently, pulsating a pressurized fluid may not simply be a matter of operator choice, but may offer a manner with which to enhance the operation of the

polishing system. Furthermore, none of the cited art teaches or suggests a system in which the flow sequence from a spray element may be altered by an operator. As such, the limitation of spraying a pressurized fluid upon a polishing pad, as recited in claim 18, cannot be a matter of operator choice in light of the teachings of the cited art.

For at least the reasons stated above, none of the cited art teaches or suggests the limitations of claims 11 or 18. Therefore, claims 11 and 18, as well as claims dependent therefrom, are patentably distinct over the cited art. Accordingly, removal of this rejection is respectfully requested.

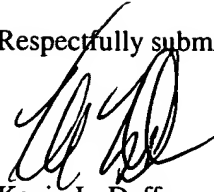
In addition to being patentable for reasons set forth above, dependent claim 14 is believed to be separately patentable for referencing the spray distribution from one nozzle to overlap a spray distribution in an adjacent nozzle. As shown in Fig. 3 of Huey, nozzles 72 are sufficiently spaced apart such that the spray distribution from the nozzles does not overlap. Manfredi specifically teaches, "... the slurry is dropped downward, preferably substantially traverse to the polishing pad surface ..." (Manfredi, column 7, lines 21-23) from openings 31 spaced apart in dispenser 24. Consequently, Manfredi discloses spray distributions from adjacent nozzles to be spaced apart from each other as shown in Fig. 1. Consequently, Therefore, neither Huey nor Manfredi teach or suggest the limitations of claim 14.

### **CONCLUSION**

This response constitutes a complete response to all issues raised in the final Office Action dated May 7, 2003. In view of the remarks traversing the rejections presented therein, Applicants assert that pending claims 1, 3-12, 14, 16-22, 27, and 28 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned attorney earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees, which may be required, or credit any overpayment, to Conley Rose, P.C. Deposit Account No. 03-2769/5298-05700.

Respectfully submitted,



Kevin L. Daffer  
Reg. No. 34,146  
Attorney for Applicants

Conley Rose, P.C.  
P.O. Box 684908  
Austin, TX 78768-4908  
Ph: (512) 476-1400  
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MEL